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12/14/09

Honorable Judge Leonard D. Wexler  
United States District Court  
100 Federal Plaza  
Central Islip, N.Y. 11722

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CHAMBERS OF  
JUDGE WEXLER

Re: USA v. Goldman 09-0064

Dear Judge Wexler:

Please excuse the handwritten nature of this letter.

The Nassau County Jail does not have a working typewriter. After almost four months of confinement in this most hellish of places, I can no longer refrain from bringing to the attention of this court, the activity (or lack thereof) and incomprehensible conduct of amongst others, the office of the US Attorney. While I have readily acknowledged my criminal activity, certain factual errors, misstatements and misconceptions continue to cloud this case. Primary is the perception, aided and abetted by the US Attorney that I acted alone and am solely responsible for this multimillion dollar loss.

When I realized that Golden, LLC (of which I was a 50% partner w/Jeff Daniels) could never, as a result of bad management and deteriorating market conditions, recover from the loss created largely, but not exclusively, by my "partners", I voluntarily surrendered and urged the creditors to seek bankruptcy protection. Contrary to the facts presently alleged, the huge losses were the result of bad deals and poor market conditions, not solely the result of theft for my personal use.

My goal changed from trying to ~~keep~~ the business afloat to attempting to assist the creditors in recovering their losses. Towards that end, I hired Mr. Joseph Conway to deal w/the criminal aspects and upon his recommendation, Mr. Michael Soreka to handle the civil matters. This approach, like most of my recent endeavors backfired horribly.

Mr. Conway assured me he had a "rapport" with his

former employer<sup>d</sup> was on "good terms" with this Honorable Court. I emphasized that I was concerned w/a monetary return to the victims, a fact I was unable to accomplish. He also assured me that he would make both the US Attorney and this Court aware that, although I had earned an excellent living, the vast majority of the funds were used in the operation of Golden and that I was not the only party culpable. To the contrary, Mr. Conway's actions/inactions have alienated this Court, he failed to make the disclosures and the result has been a perceived animosity towards me. A perfect example was the hearing on August 24, 2009. Notwithstanding that I had completely adhered to the bail conditions, had actively and continuously met with the investigator and the bankruptcy Trustee, this Court revoked my bail. It was obvious to me that there was a perception I had secreted millions, was a flight risk

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and a "menace" (the Court's words) to the public. Mr. Conway barely objected to these statements. In truth, the money went to the business, both I and my family are destitute and the victims were family, friends & colleagues, not the general public. I'm truly guilty of "hurting the ones you love" an act for which I will be eternally remorseful. Moreover, the conduct of the US Attorney only accentuated this aura which could only have the effect of casting an even more negative impact on these proceedings.

From my initial meetings with Mr. Miskiewicz and Mr. Cox, I candidly and openly confessed my transgressions and provided details. Unfortunately, my surrender and subsequent incarceration not only allowed the other parties to avoid punishment but worse, it has created an opportunity for my former partners

to further defraud the Golden creditors.

One of the most egregious examples is the conduct of one of our former joint venture partners, Mr. Sandy Robbins. This man was our principal partner in Golden's ill-fated attempt to sell "high end" residential properties. I believe we did over one dozen deals. The general agreement was (and documentation has been submitted to both the US Attorney and counsel to the Bankruptcy Trustee) that Robbins would purchase the property; Golden was to pay (from our lender's funds) for the construction and all other expenses. Profits were to be split equally. One of the joint venture projects was in Bridgehampton and involved the purchase of 2 buildings lots known as 8 & 12 Shady Path. In this deal, Robbins took title to #12 and Golden to #8. Daniels was to arrange for the deeds to be transferred to the joint

venture entity, but he never accomplished this task. Goldman paid the bills. I dealt with the contractors, brokers and was even responsible for firing and replacing the construction manager. When a worker was injured at #12 (the house still titled to Robbins) we were advised by defense counsel that it would be in our interests to allege that this was to be Mr. Robbins vacation home, not an investment property (a lie). We (Mr Daniels, me and Mr. Robbins) agreed. What I didn't realize was that this would give Mr. Robbins a financial opportunity. When the company filed for bankruptcy, Robbins now falsely asserted that this wasn't a joint venture, but a personal vacation home. He even testified to this lie at a deposition. Result? He's now claiming that the value, after the 1st mortgage belongs to him. Since this is a windfall, he took over the brokerage relations

reluctant to intervene. Only when I provided details did they do so and the \$500,000 is now in escrow pending the Bankruptcy Court's determination as to the rightful owner.

Similarly I was trying to get the Trustee not to abandon 8 Shady Path as a private sale would generate a better return than a foreclosure sale. Between Robbin's manipulations, the Trustees inaction and the decline in the market, the creditors will lose approximately \$4,500,000 from just this project.

As the Court is aware, I've replaced Mr. Conway. Aside from the perceived animosity, I do not believe he was effective counsel. For example, when I initially surrendered, he assured me I would be released upon a \$250,000 personal recognizance bond. Is



The Court also aware that, due to the notoriety of the Cosmo/Agape case, my appearance was adjourned, by agreement w/ the US Attorney four (4) times? Even though I have never been a flight risk, I wound up spending the weekend in jail before the Magistrate was satisfied with the bail package. Obviously I never fled even though I had many opportunities.

Upon being issued bail, I met with Mr. Cox, the US Attorney and the Trustee. Many times, I had to insist that Mr. Conway contact the individuals; sometimes multiple times. He seemed disinterested. Moreover, it seemed that every time we spoke to the US Attorney, the plea agreement changed.

Another error by Mr. Conway has now left me with an embarrassing situation with this Court. He erroneously requested that the US Attorney certify that both of my



cases be joined before this Court. With all due respect, this certification was clearly in error.

Clearly rather than trying to obtain justice and recovery of assets for the victims, it is readily apparent that there is a desire for this case to "go away." Conduct which has been ignored includes:

a) Mortgage fraud by Robbins. Many of the projects were, by agreement, purchased in his name. He, in conjunction with his mortgage broker would apply for a loan alleging the property to be for his own "personal use," thus obtaining a lower rate of interest.

b) Mr. Daniels participated w/ me in defrauding banks for commercial loans. While it is true that for a period of five years, Mr. Daniels dealt with his wife's crippling and

the firm financially and cost the firm millions. I also remind this Court that he brought Robbins to Golden. In addition, Mr. Daniels had a mortgage closing practice and "somehow he lost" \$250,000 from his attorneys escrow account. Although he borrowed money from his friend (and Golden creditor/lender, Mr. Perla) Mr. Perla eventually insisted that Golden assume responsibility for this loan. Further, he represented Robbins when he purchased the investment properties falsely claiming them to be for his own "personal use." He further had full and complete access to all company books and records, acted as counsel to the firm and was fully aware of the company's financial position.

c) Mr. Peter Capone, our accountant, Mr. Fox and Mr. Kook (Capone's attorney):

This is perhaps the most puzzling inaction by the US Attorney. Mr. Capone is an architect introduced to me by Mr. Ken Fox, the accountant representing both of us. Capone wanted to lend, not invest, but his funds were tied up in other real estate. Mr. Fox suggested Capone would sell his property pursuant to section 1031 of the tax code, commonly known as a "like kind" exchange. To free up the cash, he needed a "replacement property." Otherwise he would have to pay large capital gains tax on the sale. I agreed to allow Golden to provide these "replacement properties." Capone not only avoided large capital gains tax but collected twelve (12%) annual interest from Golden. Fox earned additional fees (at least from Golden) Capone didn't

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Now to worry if the properties weren't worth the value assigned to them (they weren't); if they declined in value, if the cash flow was insufficient or any of the problems associated w/ ownership. With the market collapse and Golden's impending bankruptcy, Capone's loans, totalling millions of dollars were in jeopardy.

Taking a page from Mr. Robbins, Capone decided, he was, after all, an investor not a lender. If successful, he would jump ahead of other creditors. He was even successful in obtaining an attorney to perpetuate this fraud, Mr. Mark Cook. He's fighting the bankruptcy (assigned to Judge Grossman) and he's commenced a separate civil action which is assigned to Judge Feuerstein.

Is this justice? Arguable the victims are worse off since my incarceration and my "partners" are picking at the

carcass. Although I will forever be tainted by these crimes, no one else has been called to account. To the contrary, several of my "partners" have benefited. I cannot and will not be the "dumping ground" for this entire affair.

Thank you for your time and consideration

Very truly yours,

Mark Goldma

cc: United States Attorney  
Attn: Mr. Donahue  
Mr. Miskiewicz

PS: Mr. Neville has no knowledge that I've sent this letter.

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